

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:18-cr-00701
)	
Plaintiff,)	
)	JUDGE CHRISTOPHER A. BOYKO
v.)	
)	
ERIC WITHERSPOON,)	<u>DEFENDANT ERIC WITHERSPOON'S</u>
)	<u>OBJECTIONS TO PSR</u>
Defendant.)	

Defendant, Eric Witherspoon ("Witherspoon"), through undersigned counsel, hereby respectfully submits the within objections to the PSR.

The Offense Conduct

Paragraph 14 of the PSR refers to Witherspoon "giving, offering, and promising things of value . . . including multiple cash payments" and depriving the citizens of the "honest services" of Taylor, a city official. However, Witherspoon pled guilty to count 1 only (of the 9-count indictment), which was bribery and which involved a single cash payment regarding "Premises 1." Counts 1 through 7 alleged honest services wire fraud, and count 9 alleged bribery regarding "Premises 2." Witherspoon did not plead guilty to counts 1 through 7 and count 9, he will not be convicted of them, and they will be dismissed. Therefore, Witherspoon respectfully submits that paragraph 14 should be redacted.

Paragraph 15 of the PSR refers to Witherspoon offering to pay or paying "sums of cash" over a two-year period, in exchange for a number of enumerated benefits. However, Witherspoon pled guilty to count 1 only (of the 9-count indictment), which was bribery and which involved a single cash payment of \$3,000.00 regarding "Premises 1." Counts 1 through 7

alleged honest services wire fraud, and count 9 alleged bribery regarding "Premises 2." Witherspoon did not plead guilty to counts 1 through 7 and count 9, he will not be convicted of them, and they will be dismissed. Therefore, Witherspoon respectfully submits that paragraph 15 should be amended to reflect this fact.

Paragraph 17 of the PSR asserts that "in or around November 2013 . . . Witherspoon agreed to pay Taylor \$8,000.00 cash in exchange for Taylor getting Witherspoon on the bid list for "Premises 1." However, the plea agreement that Witherspoon adopted during his plea hearing reflects that the amount paid in connection with this particular bribery was \$3,000.00, and Witherspoon pled guilty to that crime. Therefore, Witherspoon respectfully submits that paragraph 17 should be amended to reflect this fact.

Paragraphs 19 through 24 of the PSR describe facts that were alleged by the government in connection with the bribery allegations set forth in count 9 of the indictment, regarding "Premises 2." However, Witherspoon pled guilty to count 1 only (of the 9-count indictment), which was bribery and which involved a single cash payment of \$3,000.00 regarding "Premises 1." Witherspoon did not plead guilty to count 9, he will not be convicted of it, and it will be dismissed. Therefore, Witherspoon respectfully submits that paragraphs 19 through 24 should be redacted.

Criminal History Computation

Paragraph 51 of the PSR asserts that Witherspoon has a total criminal history score of four. This total results from the assessment of 1 point for Cuyahoga County Common Pleas Case No. CR-03-440105-ZA (attempted drug possession, M1), plus one point for Cleveland Municipal Court Case No. 2013-TRC-032646 (OVI, M1), plus two additional points because it is asserted that Witherspoon committed the instant offense while on probation in 2013-TRC-

032646. However, Witherspoon was not convicted in 2013-TRC-032646. Rather, Witherspoon's son, Eric L. Witherspoon (Eric Laronn Witherspoon), DOB 02/08/1991, was the defendant in 2013-TRC-032646. The defendant in the instant case, Eric Lamont Witherspoon, was born on 10/09/1963. Therefore, Witherspoon respectfully submits that he has a criminal history score of 1, and is therefore in criminal history category I.

Respectfully submitted,

s/ Dominic J. Vitantonio

Dominic J. Vitantonio (0052058)

e-mail: dominic@advattys.com

s/ George J. Argie

George J. Argie (0034219)

e-mail: george@advattys.com

Argie, D'Amico & Vitantonio

6449 Wilson Mills Road

Mayfield Village, Ohio 44143

Telephone: 440-449-3333

Facsimile: 440-449-4031

Attorneys for Defendant, Eric Witherspoon

CERTIFICATE OF SERVICE

A copy of the foregoing *Defendant Eric Witherspoon's Objections to PSR* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Dominic J. Vitantonio
Dominic J. Vitantonio (0052058)
Attorney for Defendant, Eric Witherspoon